

Senate Bill No. 1550

Passed the Senate August 31, 2006

Secretary of the Senate

Passed the Assembly August 29, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Chapter 6 (commencing with Section 6500) to Division 3 of the Business and Professions Code, and to add Section 60.1 to, to amend, repeal, and add Article 4 (commencing with Section 2340) to Chapter 4 of Part 4 of Division 4 of, and to amend and repeal Chapter 13 (commencing with Section 2850) of Part 4 of Division 4 of, the Probate Code, relating to professional fiduciaries.

LEGISLATIVE COUNSEL'S DIGEST

SB 1550, Figueroa. Professional Fiduciaries Act.

Existing law requires all private professional conservators, private professional guardians, and private professional trustees to file a specified annual statement, under penalty of perjury, with the clerk of the court. Existing law prohibits a court from appointing a person as a conservator, guardian, or trustee, unless he or she is registered in the Statewide Registry maintained by the Department of Justice and has filed the annual statement with the court.

This bill would enact the Professional Fiduciaries Act, which would create the Professional Fiduciaries Bureau in the Department of Consumer Affairs and would require the bureau to license and regulate professional fiduciaries, as specified. The bill would also create the Professional Fiduciaries Advisory Committee with specified membership and duties. On and after July 1, 2008, the act would require a person acting or holding himself or herself out as a professional fiduciary to be licensed as a professional fiduciary, unless he or she is licensed as an attorney or a certified public accountant or is enrolled as an agent to practice before the Internal Revenue Service, as specified, and would require a licensee to meet certain other requirements, including filing an application for licensure signed under penalty of perjury, passing a licensing examination, payment of licensing fees set by the bureau, submission of fingerprints for a criminal background check, and annually filing a statement containing specified information under penalty of perjury. The act would provide for the deposit of licensing fees in the Professional

Fiduciary Fund, which the bill would create and which would be the successor fund to certain fees in the Statewide Registry. The bureau would become inoperative on July 1, 2011, and be repealed on January 1, 2012, and its responsibilities and jurisdiction would be transferred to the Professional Fiduciaries Advisory Committee.

This bill would also make inoperative, as of July 1, 2008, the provisions of the Probate Code that relate to the registration of private professional conservators and guardians.

This bill would only become operative if SB 1116, SB 1716, and AB 1363 are enacted and become effective on or before January 1, 2007.

Because this bill would require the filing of documents signed under penalty of perjury, it would expand the crime of perjury and thereby impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. This act, together with Senate Bill 1116, Senate Bill 1716, and Assembly Bill 1363, shall be known and may be cited as the Omnibus Conservatorship and Guardianship Reform Act of 2006.

SEC. 2. The Legislature finds and declares all of the following:

(a) California's population is growing at an increasing rate, and the growth in the number of people 65 years of age or older is surpassing that in other states. The number of California's population 65 years of age or older will grow from 3.6 million people in the year 2000, to 6.2 million people in the year 2020, an increase of 72 percent.

(b) As the population of California continues to grow and age, an increasing number of people in the state are unable to provide properly for their personal needs, manage their financial resources, or resist fraud or undue influence as well as fiscal,

emotional, and physical harm. In addition, there is an increasing use of trusts and durable powers of attorney by individuals seeking to provide for potential incapacity. These vulnerable members of society have an expectation that they and their property will be protected by a fair system with high standards of care.

(c) One result of these trends is the growing number of people acting as professional conservators, guardians, trustees, attorneys-in-fact, and estate administrators on behalf of other persons or their estates. The persons acting in one or more of these capacities are known or are commonly referred to as professional fiduciaries.

(d) Professional fiduciaries are not adequately regulated at present. This lack of regulation can result in the neglect or the physical, emotional or financial abuse of the vulnerable clients that professional fiduciaries are supposed to serve. Unless there is a strengthened accountability, abuses of people who are unable to take care of themselves or their property by professional fiduciaries will increase.

(e) Creation of a program to license and regulate professional fiduciaries is necessary to protect the public health, safety, and welfare.

SEC. 3. Chapter 6 (commencing with Section 6500) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 6. PROFESSIONAL FIDUCIARIES

Article 1. General Provisions

6500. This chapter shall be known as the Professional Fiduciaries Act.

6501. As used in this chapter, the following terms have the following meanings:

- (a) “Act” means this chapter.
- (b) “Bureau” means the Professional Fiduciaries Bureau within the Department of Consumer Affairs, established pursuant to Section 6510.
- (c) “Client” means an individual who is served by a professional fiduciary.
- (d) “Department” means the Department of Consumer Affairs.

(e) “Licensee” means a person who is licensed under this chapter as a professional fiduciary.

(f) “Professional fiduciary” means a person who acts as a conservator or guardian for two or more persons at the same time who are not related to the professional fiduciary or to each other by blood, adoption, marriage, or registered domestic partnership. “Professional fiduciary” also means a person who acts as a trustee, agent under a durable power of attorney for health care, or agent under a durable power of attorney for finances, for more than three people or more than three families, or a combination of people and families that totals more than three, at the same time, who are not related to the professional fiduciary by blood, adoption, marriage, or registered domestic partnership. “Professional fiduciary” does not include any of the following:

(1) A trust company, as defined in Section 83 of the Probate Code.

(2) An FDIC-insured institution, or its holding companies, subsidiaries, or affiliates. For the purposes of this paragraph, “affiliate” means any entity that shares an ownership interest with, or that is under the common control of, the FDIC-insured institution.

(3) A person employed by an entity described in paragraph (1) or (2) who is acting in the course and scope of that employment.

(4) Any public officer or public agency, including the public guardian, public conservator, or other agency of the State of California or of a county of California, when that public officer or public agency is acting in the course and scope of official duties, or any regional center for persons with developmental disabilities as defined in Section 4620 of the Welfare and Institutions Code.

(5) Any person whose sole activity as a professional fiduciary is as a broker-dealer, broker-dealer agent, investment adviser representative registered and regulated under the Corporate Securities Law of 1968 (Division 1 (commencing with section 25000) of Title 4 of the Corporations Code), the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), or involves serving as a trustee to a company regulated by the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(g) “Committee” means the Professional Fiduciaries Advisory Committee, as established pursuant to Section 6511..

6502. (a) Every person who is required to register with the Statewide Registry maintained by the Department of Justice under Chapter 13 (commencing with Section 2850) of Part 4 of Division 4 of the Probate Code prior to January 1, 2007, shall be required to obtain a license as a professional fiduciary under this chapter.

(b) Every person who is required to file information with the clerk of the court under Article 4 (commencing with Section 2340) of Chapter 3 of Part 4 of Division 4 of the Probate Code prior to January 1, 2007, shall be required to obtain a license as a professional fiduciary under this chapter.

Article 2. Administration

6510. (a) There is within the jurisdiction of the department the Professional Fiduciaries Bureau. The bureau is under the supervision and control of the director. The duty of enforcing and administering this chapter is vested in the chief of the bureau, who is responsible to the director. Every power granted or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy director or by the chief, subject to conditions and limitations as the director may prescribe.

(b) The Governor shall appoint, subject to confirmation by the Senate, the chief of the bureau, at a salary to be fixed and determined by the director with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the director and at the pleasure of the Governor.

(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the bureau subject to the review required by Division 1.2 (commencing with Section 473).

Notwithstanding any other provision of law, upon the repeal of this section, the responsibilities and jurisdiction of the bureau

shall be transferred to the Professional Fiduciaries Advisory Committee, as provided by Section 6511.

6511. (a) There is within the bureau a Professional Fiduciaries Advisory Committee. The committee shall consist of seven members; three of whom shall be licensees actively engaged as professional fiduciaries in this state, and four of whom shall be public members. One of the public members shall be a member of a nonprofit organization advocating on behalf of the elderly, and one of the public members shall be a probate court investigator.

(b) Each member of the committee shall be appointed for a term of four years, and shall hold office until the appointment of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.

(c) Vacancies shall be filled by the appointing power for the unexpired portion of the terms in which they occur. No person shall serve as a member of the committee for more than two consecutive terms.

(d) The Governor shall appoint the member from a nonprofit organization advocating on behalf of the elderly, the probate court investigator, and the three licensees. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(e) Every member of the committee shall receive per diem and expenses as provided in Sections 103 and 113.

(f) The committee shall do all of the following:

(1) Examine the functions and policies of the bureau and make recommendations with respect to policies, practices, and regulations as may be deemed important and necessary by the director or the chief to promote the interests of consumers or that otherwise promote the welfare of the public.

(2) Consider and make appropriate recommendations to the bureau in any matter relating to professional fiduciaries in this state.

(3) Provide assistance as may be requested by the bureau in the exercise of its powers or duties.

(4) Meet at least once each quarter. All meetings of the committee shall be public meetings.

(g) The bureau shall meet and consult with the committee regarding general policy issues related to professional fiduciaries.

(h) Notwithstanding any other provision of law, if the bureau becomes inoperative or is repealed in accordance with Section 6510, or by subsequent acts, the committee shall succeed to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction, not otherwise repealed or made inoperative, of the bureau and its chief. The succession of the committee to the functions of the bureau as provided in this subdivision shall establish the committee as the Professional Fiduciaries Committee in the department within the meaning of Section 22, and all references to the bureau in this code shall be considered as references to the committee.

6513. The bureau may employ, subject to civil service and other provisions of law, other employees as may be necessary to carry out the provisions of this chapter under the direction of the chief.

6514. The bureau shall keep a complete record of all its proceedings and all licenses issued, renewed, or revoked, and a detailed statement of receipts and disbursements.

6515. The duty of administering and enforcing this chapter is vested in the bureau and the chief. In the performance of this duty, the bureau and the chief have all of the powers of, and are subject to all of the responsibilities vested in and imposed upon, the head of a department by Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

6516. Protection of the public shall be the highest priority for the bureau in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

6517. The bureau may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), regulations necessary to enable the bureau to carry into effect the provisions of law relating to this chapter.

6518. (a) The bureau shall be responsible for administering the licensing and regulatory program established in this chapter.

(b) The bureau shall approve classes qualifying for prelicense education, as well as classes qualifying for annual continuing education required by this chapter. The bureau shall maintain a current list of all approved classes.

(c) The bureau shall arrange for the preparation and administration of licensing examinations.

6520. The bureau shall adopt, by regulation, a Professional Fiduciaries Code of Ethics. The Professional Fiduciaries Code of Ethics shall be consistent with all statutory requirements, as well as requirements developed by the courts and the Judicial Council. The Professional Fiduciaries Code of Ethics shall be provided electronically on the bureau's Internet Web site and to persons who request an application for licensure. The bureau may, by regulation, amend the Professional Fiduciaries Code of Ethics from time to time, as it deems necessary, provided that no amendment shall be effective with regard to a licensee until the licensee's next annual license renewal cycle, as specified in subdivision (a) of Section 6542, is completed. Any amendment to the Professional Fiduciaries Code of Ethics shall be included in the license renewal materials sent to a licensee.

Article 3. Licensing

6530. (a) On and after July 1, 2008, no person shall act or hold himself or herself out to the public as a professional fiduciary unless that person is licensed as a professional fiduciary in accordance with the provisions of this chapter.

(b) This section does not apply to a person licensed as an attorney under the State Bar Act (Chapter 4 (commencing with Section 6000)).

(c) This section does not apply to a person licensed as, and acting within the scope of practice of, a certified public accountant pursuant to Chapter 1 (commencing with Section 5000) of Division 3.

(d) This section does not apply to a person enrolled as an agent to practice before the Internal Revenue Service who is acting within the scope of practice pursuant to Part 10 of Title 31 of the Code of Federal Regulations.

6531. No professional fiduciary shall operate with an expired, suspended, or revoked license.

6532. A person who has been licensed by the bureau may identify himself or herself as a “licensed professional fiduciary.”

6533. In order to meet the qualifications for licensure as a professional fiduciary a person shall meet all of the following requirements:

- (a) Be at least 21 years of age.
- (b) Be a United States citizen, or be legally admitted to the United States.
- (c) Have not committed any acts that are ground for denial of a license under Section 480 or 6536.
- (d) Submit fingerprint images as specified in Section 6533.5 in order to obtain criminal offender record information.
- (e) Have completed the required prelicensing education described in Section 6538.
- (f) Have passed the licensing examination administered by the bureau pursuant to Section 6539.
- (g) Have at least one of the following:
 - (1) A baccalaureate degree of arts or sciences from a college or university accredited by a nationally recognized accrediting body of colleges and universities or a higher level of education.
 - (2) An associate of arts or science degree from a college or university accredited by a nationally recognized accrediting body of colleges and universities, and at least five years of experience with substantive fiduciary responsibilities working for a professional fiduciary, public agency, or financial institution acting as a conservator, guardian, trustee, personal representative, or agent under a power of attorney.
 - (3) Experience of not less than three years, prior to July 1, 2008, with substantive fiduciary responsibilities working for a public agency or financial institution acting as a conservator, guardian, trustee, personal representative, or agent under a power of attorney.
- (h) Agree to adhere to the Professional Fiduciaries Code of Ethics and to all statutes and regulations.
- (i) Consent to the bureau conducting a credit check on the applicant.
- (j) File a completed application for licensure with the bureau on a form provided by the bureau and signed by the applicant under penalty of perjury.

(k) Submit with the license application a nonrefundable application fee, as specified in this chapter.

6533.5. Criminal offender record information shall be obtained on each applicant as provided in this section.

(a) Each applicant shall submit fingerprint images to the Department of Justice for the purpose of obtaining criminal offender record information regarding state and federal level convictions and arrests, including arrests where the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(b) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a fitness determination to the bureau.

(c) The Department of Justice shall provide a response to the bureau pursuant to subdivision (p) of Section 11105 of the Penal Code.

(d) The bureau shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code.

(e) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

6534. (a) The bureau shall maintain the following information in each licensee's file, shall make this information available to a court for any purpose, including the determination of the appropriateness of appointing or continuing the appointment of, or removing, the licensee as a conservator, guardian, trustee, or personal representative, and shall otherwise keep this information confidential, except as provided in subdivisions (b) and (c) of this section:

(1) The names of the licensee's current conservatees or wards and the trusts or estates currently administered by the licensee.

(2) The aggregate dollar value of all assets currently under the licensee's supervision as a professional fiduciary.

(3) The licensee's current addresses and telephone numbers for his or her place of business and place of residence.

(4) Whether the licensee has ever been removed for cause as conservator, guardian, trustee, or personal representative or has

ever resigned as conservator, guardian, trustee, or personal representative in a specific case, the circumstances causing that removal or resignation, and the case names, court locations, and case numbers associated with the removal or resignation.

(5) The case names, court locations, and case numbers of all conservatorship, guardianship, or trust or other estate administration cases that are closed for which the licensee served as the conservator, guardian, trustee, or personal representative.

(6) Information regarding any discipline imposed upon the licensee by the bureau.

(7) Whether the licensee has ever filed for bankruptcy or held a controlling financial interest in a business that filed for bankruptcy.

(b) The bureau shall make the information in paragraphs (2), (4), (6), and (7) of subdivision (a) available to the public.

(c) The bureau shall also publish information regarding licensees on the Internet as specified in Section 27. The information shall include, but shall not be limited to, information regarding license status and the information specified under subdivision (b).

6535. The bureau shall approve or deny licensure in a timely manner to applicants who apply for licensure. Upon approval of a license, the bureau shall notify the applicant of issuance of the license, and shall issue a license certificate identifying him or her as a “licensed professional fiduciary.”

6536. The bureau shall review all applications for licensure and may investigate an applicant’s qualifications for licensure. The bureau shall approve those applications that meet the requirements for licensure, but shall not issue a license to any applicant who meets any of the following criteria:

(a) Does not meet the qualifications for licensure under this chapter.

(b) Has been convicted of a crime substantially related to the qualifications, functions, or duties of a fiduciary.

(c) Has engaged in fraud or deceit in applying for a license under this chapter.

(d) Has engaged in dishonesty, fraud, or gross negligence in performing the functions or duties of a fiduciary, including engaging in such conduct prior to July 1, 2008.

(e) Has been removed as a fiduciary by a court for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference, or has demonstrated a pattern of negligent conduct, including a removal prior to July 1, 2008, and all appeals have been taken, or the time to file an appeal has expired.

6537. The bureau may deny a license for the reasons specified in Section 480 or 6536. An applicant notified of the denial of his or her application for licensure shall have the right to appeal to the bureau as specified in Chapter 2 (commencing with Section 480) of Division 1.5.

6538. (a) To qualify for licensure, an applicant shall have completed 30 hours of prelicensing education courses provided by an educational program approved by the bureau.

(b) To renew a license, a licensee shall complete 15 hours of approved continuing education courses each year.

(c) The cost of any educational course required by this chapter shall not be borne by any client served by a licensee.

6539. As a requirement for licensure, an applicant shall take and pass the licensing examination administered by the bureau. The bureau shall determine the frequency with which the examination will be given. The bureau shall also determine the frequency with which an applicant for reexamination may sit for the examination. The bureau shall administer the examination through a computer-based examination process and may also administer the examination through other means.

6540. Individuals, entities, agencies, and associations that propose to offer educational programs qualifying for the prelicensing educational or continuing educational requirements of this chapter shall apply for and obtain the approval of the bureau.

6541. (a) A license shall expire one year after it was issued on the last day of the month in which it was issued.

(b) A license may be renewed by filing a renewal application with the bureau, submitting the annual statement required by Section 6561, submitting proof of the licensee's compliance with the continuing education requirements of this chapter, and payment of the renewal fee set by the bureau, provided that the licensee has not engaged in conduct that would justify the

bureau's refusal to grant the renewal. Acts justifying the bureau's refusal to renew a license shall include any of the following:

- (1) Conviction of a crime substantially related to the qualifications, functions, or duties of a fiduciary.
- (2) Fraud or deceit in obtaining a license under this chapter.
- (3) Dishonesty, fraud, or gross negligence in performing the functions or duties of a professional fiduciary.
- (4) Removal by a court as a fiduciary for breach of fiduciary duty if all appeals have been taken or the time to file an appeal has expired.

Article 4. Practice Provisions

6560. A licensee shall keep complete and accurate records of client accounts, and shall make those records available for audit by the bureau.

6561. (a) A licensee shall initially, and annually thereafter, file with the bureau a statement under penalty of perjury containing the following:

- (1) Her or his business address, telephone number, and facsimile number.
- (2) Whether or not he or she has been removed as conservator, guardian, trustee, or personal representative for cause. The licensee may file an additional statement of the issues and facts pertaining to the case.
- (3) The case names, court locations, and case numbers for all matters where the licensee has been appointed by the court.
- (4) Whether he or she has been found by a court to have breached a fiduciary duty.
- (5) Whether he or she has resigned or settled a matter in which a complaint has been filed, along with the case number and a statement of the issues and facts pertaining to the allegations.
- (6) Any licenses or professional certificates held by the licensee.
- (7) Any ownership or beneficial interests in any businesses or other enterprises held by the licensee or by a family member that receives or has received payments from a client of the licensee.
- (8) Whether the licensee has ever filed for bankruptcy or held a controlling financial interest in a business that filed for bankruptcy.

(9) The name of any persons or entities that have an interest in the licensee's professional fiduciary business.

(10) Whether the licensee has been convicted of a crime .

(b) The statement by the licensee required by this section may be filed electronically with the bureau, in a form approved by the bureau. However, any additional statement filed under paragraph (2) of subdivision (a) shall be filed in writing.

6562. The annual statement shall be filed with the bureau 60 days prior to the expiration of the license as provided in subdivision (a) of Section 6541.

Article 5. Enforcement and Disciplinary Proceedings

6580. (a) The bureau may upon its own, and shall, upon the receipt of a complaint from any person, investigate the actions of any professional fiduciary. The bureau shall review a professional fiduciary's alleged violation of statute, regulation, or the Professional Fiduciaries Code of Ethics and any other complaint referred to it by the public, a public agency, or the department, and may impose sanctions upon a finding of a violation or a breach of fiduciary duty.

(b) Sanctions shall include any of the following:

(1) Administrative citations and fines as provided in Section 125.9 for a violation of this chapter, the Professional Fiduciaries Code of Ethics, or any regulation adopted under this chapter.

(2) License suspension, probation, or revocation.

(c) The bureau shall provide on the Internet information regarding any sanctions imposed by the bureau on licensees, including, but not limited to, information regarding citations, fines, suspensions, and revocations of licenses or other related enforcement action taken by the bureau relative to the licensee.

6582. All proceedings against a licensee for any violation of this chapter or any regulations adopted by the bureau shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall be prosecuted by the Attorney General's office, and the bureau shall have all the powers granted therein.

6582.5. Notwithstanding Section 6582, if any violation occurs, in its discretion, the bureau may refer the case to the

Attorney General or to the local district attorney for criminal prosecution. The referral of a case for criminal prosecution shall not preclude the bureau from taking any other action provided for in this chapter.

6583. The bureau shall establish a system of administrative citations and fines under Section 125.9 for violations of this chapter, the Professional Fiduciaries Code of Ethics, or any regulation adopted under this chapter.

6584. A license issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes:

(a) Conviction of any felony or any misdemeanor, if the misdemeanor is substantially related to the functions and duties of a professional fiduciary. The record of conviction, or a certified copy thereof, is conclusive evidence of the conviction.

(b) Failure to notify the bureau of a conviction as required by paragraph (10) of subdivision (a) of Section 6561.

(c) Fraud or misrepresentation in obtaining a license.

(d) Fraud, dishonesty, corruption, willful violation of duty, gross negligence or incompetence in practice, or unprofessional conduct in, or related to, the practice of a professional fiduciary. For purposes of this section, unprofessional conduct includes, but is not limited to, acts contrary to professional standards concerning any provision of law substantially related to the duties of a professional fiduciary.

(e) Failure to comply with, or to pay a monetary sanction imposed by, a court for failure to provide timely reports. The record of the court order, or a certified copy thereof, is conclusive evidence that the sanction was imposed.

(f) Failure to pay a civil penalty relating to the licensee's professional fiduciary duties.

(g) The revocation of, suspension of, or other disciplinary action against, any other professional license by the State of California or by another state. A certified copy of the revocation, suspension, or disciplinary action is conclusive evidence of that action.

(h) Violation of this chapter or of the applicable provisions of Division 4 (commencing with Section 1400), Division 4.5 (commencing with Section 4000), Division 4.7 (commencing with Section 4600), or Division 5 (commencing with Section

5000) of the Probate Code or of any of the statutes, rules, or regulations pertaining to duties or functions of a professional fiduciary.

Article 6. Revenue

6590. All fees collected by the bureau shall be paid into the Professional Fiduciary Fund in the State Treasury, which is hereby created. The money in the fund shall be available to the bureau for expenditure for the purposes of this chapter only upon appropriation by the Legislature.

6591. The Professional Fiduciary Fund shall be the successor fund to those funds deposited under the Statewide Registry with the Department of Justice pursuant to Chapter 13 (commencing with Section 2850) of Part 4 of Division 4 of the Probate Code.

6592. (a) The fee for a professional fiduciary examination and reexamination shall be set by the bureau through regulation at the amount necessary to recover the actual costs to develop and administer the examination.

(b) The license fee to obtain a professional fiduciary license shall be set by the bureau.

(c) The renewal fee for a professional fiduciary license shall be set by the bureau.

(d) The license and renewal fees under subdivisions (b) and (c) shall be set by the bureau through regulation at an amount necessary to recover the costs to the bureau in carrying out the provisions of this chapter.

SEC. 4. Section 60.1 is added to the Probate Code, to read:

60.1. (a) “Professional fiduciary” means a person who is a professional fiduciary as defined under subdivision (f) of Section 6501 of the Business and Professions Code.

(b) On and after July 1, 2008, no person shall act or hold himself or herself out to the public as a professional fiduciary unless he or she is licensed as a professional fiduciary under Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code.

SEC. 5. Article 4 (commencing with Section 2340) is added to Chapter 4 of Part 4 of Division 4 of the Probate Code, to read:

Article 4. Professional Fiduciaries

2340. On and after July 1, 2008, a superior court may not appoint a person to carry out the duties of a professional fiduciary, unless he or she holds a valid, unexpired, unsuspended license as a professional fiduciary under Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code.

2341. This article shall become operative on July 1, 2008.

SEC. 6. Section 2345 is added to the Probate Code, to read:

2345. This article shall remain in effect only until July 1, 2008, and as of January 1, 2009, is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 2856 is added to the Probate Code, to read:

2856. This chapter shall remain in effect only until July 1, 2008, and as of January 1, 2009, is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. This act shall only become operative if Senate Bill 1116, Senate Bill 1716, and Assembly Bill 1363 of the 2005–06 Regular Session are enacted and become effective on or before January 1, 2007.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2006

Governor